



House of Representatives

General Assembly

File No. 824

January Session, 2019

Substitute House Bill No. 7130

House of Representatives, April 29, 2019

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING PROBATE COURT OPERATIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) (a) As used in this section:

2 (1) "eFiling system" means the system maintained by the Probate
3 Court Administrator by which a person can use the Internet to file,
4 send and receive documents, view court records and pay court fees
5 and expenses in Probate Court matters.

6 (2) "eFiling access" means use of the eFiling system to view Probate
7 Court records online.

8 (3) "Electronic service" or "eService" means use of the eFiling system
9 to send a filing, notice or other document.

10 (4) "Registered filer" means a person who has registered to use the
11 eFiling system.

12 (b) The Probate Court or a party or attorney in a Probate Court

13 matter may send any filing, notice or other document to a registered
14 filer by electronic service if the court has granted the registered filer's
15 request for eFiling access to the matter. Notwithstanding any provision
16 of the general statutes, electronic service shall satisfy any requirement
17 under law concerning the transmission of the filing, notice or
18 document by means other than personal service.

19 Sec. 2. Section 17a-101j of the general statutes is repealed and the
20 following is substituted in lieu thereof (*Effective January 1, 2020*):

21 (a) After the investigation has been completed and the
22 Commissioner of Children and Families has reasonable cause to
23 believe that sexual abuse or serious physical abuse of a child has
24 occurred, the commissioner shall notify the appropriate local law
25 enforcement authority and the Chief State's Attorney or the Chief
26 State's Attorney's designee or the state's attorney for the judicial
27 district in which the child resides or in which the abuse or neglect
28 occurred of such belief and shall provide a copy of the report required
29 in sections 17a-101a to 17a-101c, inclusive, and 17a-103.

30 (b) Whenever a report has been made pursuant to sections 17a-101a
31 to 17a-101c, inclusive, and 17a-103, alleging that abuse or neglect has
32 occurred at an institution or facility that provides care for children and
33 is subject to licensure by the state for the caring of children, and the
34 Commissioner of Children and Families, after investigation, has
35 reasonable cause to believe abuse or neglect has occurred, the
36 commissioner shall forthwith notify the state agency responsible for
37 such licensure of such institution or facility and provide records,
38 whether or not created by the department, concerning such
39 investigation.

40 (c) If, after the investigation is completed, the commissioner
41 substantiates an allegation of abuse or neglect against an individual
42 who has been appointed guardian of a child by the Probate Court, the
43 commissioner shall notify the Probate Court of such substantiation.

44 (d) If, after the investigation is completed, the commissioner

45 substantiates an allegation of abuse or neglect against an individual
46 who resides in the household of a guardian appointed by the Probate
47 Court for a child, the commissioner shall notify the Probate Court of
48 such substantiation.

49 [(d)] (e) If, after the investigation is completed, the commissioner
50 determines that a parent or guardian inflicting abuse or neglecting a
51 child is in need of treatment for substance abuse, the commissioner
52 shall refer such person to appropriate treatment services.

53 [(e)] (f) For purposes of this section, "child" includes any victim
54 described in subdivision (2) of subsection (a) of section 17a-101a.

55 Sec. 3. Section 45a-2a of the general statutes is repealed and the
56 following is substituted in lieu thereof (*Effective from passage*):

57 [Not later than March 31, 2010, the] The Probate Court
58 Administrator shall designate a name for each probate district
59 established in section 45a-2. Prior to designating such names, the
60 Probate Court Administrator may consult with affected probate judges
61 and chief elected officials, and with members of the General Assembly
62 with respect to the districts they represent. [Not later than December
63 31, 2010, the] The Probate Court Administrator shall publish the
64 district names in the Probate Court's Directory of Judges and Districts.
65 [On and after the date that such district names are published, the
66 probate districts shall be referred to by such names.]

67 Sec. 4. Subsection (b) of section 45a-106a of the general statutes is
68 repealed and the following is substituted in lieu thereof (*Effective July*
69 *1, 2019*):

70 (b) The fee to file each of the following motions, petitions or
71 applications in a Probate Court is [two hundred twenty-five] two
72 hundred fifty dollars:

73 (1) With respect to a minor child: (A) Appoint a temporary
74 guardian, temporary custodian, guardian, coguardian, permanent
75 guardian or statutory parent, (B) remove a guardian, including the

76 appointment of another guardian, (C) reinstate a parent as guardian,
77 (D) terminate parental rights, including the appointment of a guardian
78 or statutory parent, (E) grant visitation, (F) make findings regarding
79 special immigrant juvenile status, (G) approve placement of a child for
80 adoption outside this state, (H) approve an adoption, (I) validate a
81 foreign adoption, (J) review, modify or enforce a cooperative
82 postadoption agreement, (K) review an order concerning contact
83 between an adopted child and his or her siblings, (L) resolve a dispute
84 concerning a standby guardian, (M) approve a plan for voluntary
85 services provided by the Department of Children and Families, (N)
86 determine whether the termination of voluntary services provided by
87 the Department of Children and Families is in accordance with
88 applicable regulations, (O) conduct an in-court review to modify an
89 order, (P) grant emancipation, (Q) grant approval to marry, (R)
90 transfer funds to a custodian under sections 45a-557 to 45a-560b,
91 inclusive, (S) appoint a successor custodian under section 45a-559c, (T)
92 resolve a dispute concerning custodianship under sections 45a-557 to
93 45a-560b, inclusive, and (U) grant authority to purchase real estate;

94 (2) Determine paternity;

95 (3) Determine the age and date of birth of an adopted person born
96 outside the United States;

97 (4) With respect to adoption records: (A) Appoint a guardian ad
98 litem for a biological relative who cannot be located or appears to be
99 incompetent, (B) appeal the refusal of an agency to release information,
100 (C) release medical information when required for treatment, and (D)
101 grant access to an original birth certificate;

102 (5) Approve an adult adoption;

103 (6) With respect to a conservatorship: (A) Appoint a temporary
104 conservator, conservator or special limited conservator, (B) change
105 residence, terminate a tenancy or lease, sell or dispose household
106 furnishings, or place in a long-term care facility, (C) determine
107 competency to vote, (D) approve a support allowance for a spouse, (E)

108 grant authority to elect the spousal share, (F) grant authority to
109 purchase real estate, (G) give instructions regarding administration of
110 a joint asset or liability, (H) distribute gifts, (I) grant authority to
111 consent to involuntary medication, (J) determine whether informed
112 consent has been given for voluntary admission to a hospital for
113 psychiatric disabilities, (K) determine life-sustaining medical
114 treatment, (L) transfer to or from another state, (M) modify the
115 conservatorship in connection with a periodic review, (N) excuse
116 accounts under rules of procedure approved by the Supreme Court
117 under section 45a-78, (O) terminate the conservatorship, and (P) grant
118 a writ of habeas corpus;

119 (7) With respect to a power of attorney: (A) Compel an account by
120 an agent, (B) review the conduct of an agent, (C) construe the power of
121 attorney, and (D) mandate acceptance of the power of attorney;

122 (8) Resolve a dispute concerning advance directives or life-
123 sustaining medical treatment when the individual does not have a
124 conservator or guardian;

125 (9) With respect to an elderly person, as defined in section 17b-450:
126 (A) Enjoin an individual from interfering with the provision of
127 protective services to such elderly person, and (B) authorize the
128 Commissioner of Social Services to enter the premises of such elderly
129 person to determine whether such elderly person needs protective
130 services;

131 (10) With respect to an adult with intellectual disability: (A) Appoint
132 a temporary limited guardian, guardian or standby guardian, (B) grant
133 visitation, (C) determine competency to vote, (D) modify the
134 guardianship in connection with a periodic review, (E) determine life-
135 sustaining medical treatment, (F) approve an involuntary placement,
136 (G) review an involuntary placement, (H) authorize a guardian to
137 manage the finances of such adult, and (I) grant a writ of habeas
138 corpus;

139 (11) With respect to psychiatric disability: (A) Commit an individual

140 for treatment, (B) issue a warrant for examination of an individual at a
141 general hospital, (C) determine whether there is probable cause to
142 continue an involuntary confinement, (D) review an involuntary
143 confinement for possible release, (E) authorize shock therapy, (F)
144 authorize medication for treatment of psychiatric disability, (G) review
145 the status of an individual under the age of sixteen as a voluntary
146 patient, and (H) recommit an individual under the age of sixteen for
147 further treatment;

148 (12) With respect to drug or alcohol dependency: (A) Commit an
149 individual for treatment, (B) recommit an individual for further
150 treatment, and (C) terminate an involuntary confinement;

151 (13) With respect to tuberculosis: (A) Commit an individual for
152 treatment, (B) issue a warrant to enforce an examination order, and (C)
153 terminate an involuntary confinement;

154 (14) Compel an account by the trustee of an inter vivos trust,
155 custodian under sections 45a-557 to 45a-560b, inclusive, or treasurer of
156 an ecclesiastical society or cemetery association;

157 (15) With respect to a testamentary or inter vivos trust: (A)
158 Construe, divide, reform or terminate the trust, (B) enforce the
159 provisions of a pet trust, and (C) excuse a final account under rules of
160 procedure approved by the Supreme Court under section 45a-78;

161 (16) Authorize a fiduciary to establish a trust;

162 (17) Appoint a trustee for a missing person;

163 (18) Change a person's name;

164 (19) Issue an order to amend the birth certificate of an individual
165 born in another state to reflect a gender change;

166 (20) Require the Department of Public Health to issue a delayed
167 birth certificate;

168 (21) Compel the board of a cemetery association to disclose the

169 minutes of the annual meeting;

170 (22) Issue an order to protect a grave marker;

171 (23) Restore rights to purchase, possess and transport firearms;

172 (24) Issue an order permitting sterilization of an individual;

173 (25) Approve the transfer of structured settlement payment rights;
174 and

175 (26) With respect to any case in a Probate Court other than a
176 decedent's estate: (A) Compel or approve an action by the fiduciary,
177 (B) give advice or instruction to the fiduciary, (C) authorize a fiduciary
178 to compromise a claim, (D) list, sell or mortgage real property, (E)
179 determine title to property, (F) resolve a dispute between cofiduciaries
180 or among fiduciaries, (G) remove a fiduciary, (H) appoint a successor
181 fiduciary or fill a vacancy in the office of fiduciary, (I) approve
182 fiduciary or attorney's fees, (J) apply the doctrine of cy pres or
183 approximation, (K) reconsider, modify or revoke an order, and (L)
184 decide an action on a probate bond.

185 Sec. 5. Section 45a-616 of the general statutes is repealed and the
186 following is substituted in lieu thereof (*Effective January 1, 2020*):

187 (a) If any minor has no parent or guardian of his or her person, the
188 [Probate Court for the district in which the minor resides, is domiciled
189 or is located at the time of the filing of the petition may, on its own
190 motion,] following persons may petition the Probate Court to appoint
191 a guardian or coguardians of the person of the minor: [, taking] (1) Any
192 adult relative of the minor, including those by blood or marriage; (2) a
193 person with actual physical custody of the minor at the time the
194 petition is filed; or (3) counsel for the minor. The petition shall be filed
195 in the Probate Court in the district in which the minor resides, is
196 domiciled or is located at the time of the filing of the petition. When
197 appointing a guardian or coguardian, the court shall take into
198 consideration the standards provided in section 45a-617. [Such] The
199 court shall take of such guardian or coguardians a written acceptance

200 of guardianship and, if the court deems it necessary for the protection
201 of the minor, a probate bond.

202 (b) If any minor has a parent or guardian, who is the sole guardian
203 of the person of the child, the Probate Court for the district in which
204 the minor resides, is domiciled or is located at the time of the filing of
205 the petition may, on the petition of the parent or guardian of such
206 child or of the Commissioner of Children and Families with the
207 consent of such parent or guardian and with regard to a child within
208 the care of the commissioner, appoint one or more persons to serve as
209 coguardians of the child. When appointing a guardian or guardians
210 under this subsection, the court shall take into consideration the
211 standards provided in section 45a-617. The court may order that the
212 appointment of a guardian or guardians under this subsection take
213 effect immediately or, upon request of the parent or guardian, upon
214 the occurrence of a specified contingency, including, but not limited to,
215 the mental incapacity, physical debilitation or death of that parent or
216 guardian. Upon the occurrence of such contingency and notice thereof
217 by written affidavit to the court by the appointed guardian or
218 guardians, such appointment shall then take effect and continue until
219 the further order of the court, provided the court may hold a hearing
220 to verify the occurrence of such contingency. The court shall take of
221 such guardian or coguardians a written acceptance of guardianship,
222 and if the court deems it necessary for the protection of the minor, a
223 probate bond.

224 (c) Upon receipt of a petition pursuant to this section, the court shall
225 set a time and place for a hearing to be held within thirty days of the
226 application, unless the court requests an investigation in accordance
227 with the provisions of section 45a-619, in which case the court shall set
228 a day for hearing not more than thirty days following receipt of the
229 results of the investigation. The court shall order notice of the hearing
230 to be given to the minor, if [over twelve years of] age twelve or older,
231 by first class mail [at least] not less than ten days prior to the date of
232 the hearing. In addition, notice by first class mail shall be given to the
233 petitioner and all other parties in interest known by the court.

234 (d) The rights and obligations of the guardian or coguardians shall
235 be those described in subdivisions (5) and (6) of section 45a-604 and
236 shall be shared with the parent or previously appointed guardian of
237 the person of the minor. The rights and obligations of guardianship
238 may be exercised independently by those who have such rights and
239 obligations. In the event of a dispute between guardians or between a
240 coguardian and a parent, the matter may be submitted to the Probate
241 Court which appointed the guardian or coguardian.

242 (e) Upon the death of the parent or guardian, any appointed
243 guardians of the person of a minor child shall become the sole
244 guardians or coguardians of the person of that minor child.

245 (f) Notwithstanding the provisions of section 45a-604, for purposes
246 of this section and section 45a-106a, as amended by this act, "minor" or
247 "minor child" means (1) a person under the age of eighteen, or (2) an
248 unmarried person under the age of twenty-one who (A) is dependent
249 on a competent caregiver, (B) has consented to the appointment or
250 continuation of a guardian after attaining the age of eighteen, and (C)
251 files or on whose behalf is filed a petition for findings pursuant to
252 section 45a-608n.

253 Sec. 6. Section 45a-678 of the general statutes is repealed and the
254 following is substituted in lieu thereof (*Effective October 1, 2019*):

255 Any plenary guardian or limited guardian serving in accordance
256 with the provisions of sections 45a-669 to 45a-683, inclusive, may be
257 removed by the Probate Court which appointed such guardian and
258 another person appointed guardian if the court making such
259 appointment, after notice and hearing [as required in section 45a-671,]
260 finds such removal and appointment of a new plenary guardian or
261 limited guardian to be in the best interest of the protected person. In
262 the event a petition for removal has been filed under this section, the
263 attorney of record for the protected person shall have access to all of
264 the records of the respondent.

265 Sec. 7. Section 45a-716 of the general statutes is repealed and the

266 following is substituted in lieu thereof (*Effective October 1, 2019*):

267 (a) Upon receipt of a petition for termination of parental rights, the
268 [Court of] Probate Court, or the Superior Court on a case transferred to
269 it from the [Court of] Probate Court in accordance with the provisions
270 of subsection (g) of section 45a-715, shall set a time and place for
271 hearing the petition. The time for hearing shall be not more than thirty
272 days after the filing of the petition, except, in the case of a petition for
273 termination of parental rights based on consent that is filed on or after
274 October 1, 2004, the time for hearing shall be not more than twenty
275 days after the filing of such petition.

276 (b) The court shall cause notice of the hearing to be given to the
277 following persons, as applicable: (1) The minor child, if age twelve or
278 older; (2) the parent or parents of the minor child, including any parent
279 who has been removed as guardian; [on or after October 1, 1973, under
280 section 45a-606; (2)] (3) the father of any minor child born out of
281 wedlock, provided at the time of the filing of the petition (A) he has
282 been adjudicated the father of such child by a court of competent
283 jurisdiction, (B) he has acknowledged in writing that he is the father of
284 such child, (C) he has contributed regularly to the support of such
285 child, (D) his name appears on the birth certificate, (E) he has filed a
286 claim for paternity as provided under section 46b-172a, or (F) he has
287 been named in the petition as the father of the child by the mother;
288 [(3)] (4) the guardian or any other person whom the court deems
289 appropriate; [(4)] (5) the Commissioner of Children and Families; and
290 [(5)] (6) the Attorney General. The Attorney General may file an
291 appearance and shall be and remain a party to the action if the child is
292 receiving or has received aid or care from the state, or if the child is
293 receiving child support enforcement services, as defined in subdivision
294 (2) of subsection (b) of section 46b-231. If the recipient of the notice is a
295 person described in subdivision [(1) or] (2) or (3) of this subsection or is
296 any other person whose parental rights are sought to be terminated in
297 the petition, the notice shall contain a statement that the respondent
298 has the right to be represented by counsel and that if the respondent is
299 unable to pay for counsel, counsel will be appointed for the

300 respondent. The reasonable compensation for such counsel shall be
301 established by, and paid from funds appropriated to, the Judicial
302 Department, except that in the case of a Probate Court matter, if funds
303 have not been included in the budget of the Judicial Department for
304 such purposes, such compensation shall be established by the Probate
305 Court Administrator and paid from the Probate Court Administration
306 Fund.

307 (c) Except as provided in subsection (d) of this section, notice of the
308 hearing and a copy of the petition, certified by the petitioner, the
309 petitioner's agent or attorney, or the clerk of the court, shall be served
310 [at least] not less than ten days before the date of the hearing by
311 personal service or service at the person's usual place of abode on the
312 persons enumerated in subsection (b) of this section who are within
313 the state, and by first class mail on the Commissioner of Children and
314 Families and the Attorney General. If the address of any person
315 entitled to personal service or service at the person's usual place of
316 abode is unknown, or if personal service or service at the person's
317 usual place of abode cannot be reasonably effected within the state, or
318 if any person enumerated in subsection (b) of this section is out of the
319 state, a judge or the clerk of the court shall order notice to be given by
320 registered or certified mail, return receipt requested, or by publication
321 [at least] not less than ten days before the date of the hearing. Any
322 such publication shall be in a newspaper of general circulation in the
323 place of the last-known address of the person to be notified, whether
324 within or without this state, or, if no such address is known, in the
325 place where the petition has been filed.

326 (d) In any proceeding pending in the [Court of] Probate Court, in
327 lieu of personal service on, or at the usual place of abode of, a parent or
328 the father of a child born out of wedlock who is either a petitioner or
329 who signs under penalty of false statement a written waiver of
330 personal service on a form provided by the Probate Court
331 Administrator, the court may order notice to be given by first class
332 mail [at least] not less than ten days before the date of the hearing. If
333 such delivery cannot reasonably be effected, or if the whereabouts of

334 the parents is unknown, notice shall be ordered to be given by
335 publication as provided in subsection (c) of this section.

336 Sec. 8. Section 45a-717 of the general statutes is repealed and the
337 following is substituted in lieu thereof (*Effective October 1, 2019*):

338 (a) At the hearing held on any petition for the termination of
339 parental rights filed in the [Court of] Probate Court under section 45a-
340 715, as amended by this act, or filed in the Superior Court under
341 section 17a-112, or transferred to the Superior Court from the [Court
342 of] Probate Court under section 45a-715, as amended by this act, any
343 party to whom notice was given shall have the right to appear and be
344 heard with respect to the petition. If a parent who is consenting to the
345 termination of such parent's parental rights appears at the hearing on
346 the petition for termination of parental rights, the court shall explain to
347 the parent the meaning and consequences of termination of parental
348 rights. Nothing in this subsection shall be construed to require the
349 appearance of a consenting parent at the hearing regarding the
350 termination of such parent's parental rights except as otherwise
351 provided by court order.

352 (b) If a respondent parent appears without counsel, the court shall
353 inform such respondent parent of his or her right to counsel and upon
354 request, if he or she is unable to pay for counsel, shall appoint counsel
355 to represent such respondent parent. No respondent parent may waive
356 counsel unless the court has first explained the nature and meaning of
357 a petition for the termination of parental rights. Unless the
358 appointment of counsel is required under section 46b-136, the court
359 may appoint counsel to represent or appear on behalf of any child in a
360 hearing held under this section to speak on behalf of the best interests
361 of the child. If the respondent parent is unable to pay for his or her
362 own counsel or if the child [or the parent or guardian of the child] is
363 unable to pay for the child's counsel, in the case of a Superior Court
364 matter, the reasonable compensation of counsel appointed for the
365 respondent parent or the child shall be established by, and paid from
366 funds appropriated to, the Judicial Department and, in the case of a

367 Probate Court matter, the reasonable compensation of counsel
368 appointed for the respondent parent or the child shall be established
369 by, and paid from funds appropriated to, the Judicial Department,
370 however, in the case of a Probate Court matter, if funds have not been
371 included in the budget of the Judicial Department for such purposes,
372 such compensation shall be established by the Probate Court
373 Administrator and paid from the Probate Court Administration Fund.

374 (c) The court shall, if a claim for paternity has been filed in
375 accordance with section 46b-172a, continue the hearing under the
376 provisions of this section until the claim for paternity is adjudicated,
377 provided the court may combine the hearing on the claim for paternity
378 with the hearing on the termination of parental rights petition.

379 (d) Upon finding at the hearing or at any time during the pendency
380 of the petition that reasonable cause exists to warrant an examination,
381 the court, on its own motion or on motion by any party, may order the
382 child to be examined at a suitable place by a physician, psychiatrist or
383 licensed clinical psychologist appointed by the court. The court may
384 also order examination of a parent or custodian whose competency or
385 ability to care for a child before the court is at issue. The [expenses]
386 expense of any examination [if ordered by the court on its own motion
387 shall be paid for by the petitioner or, if ordered on motion by a party,]
388 shall be paid for by the [party moving for such an examination unless
389 such party or petitioner is unable to pay such expenses in which case,
390 they] petitioner, respondent or the party who requested the
391 examination in such proportion as the court determines. If a party
392 responsible for payment is indigent, such party's share of the expense
393 shall be paid for by funds appropriated to the Judicial Department,
394 however, in the case of a Probate Court matter, if funds have not been
395 included in the budget of the Judicial Department for such purposes,
396 [such expenses] the compensation of the physician, psychiatrist or
397 psychologist shall be established by the Probate Court Administrator
398 and paid from the Probate Court Administration Fund. The court may
399 consider the results of the examinations in ruling on the merits of the
400 petition.

401 (e) (1) The court may, and in any contested case shall, request the
402 Commissioner of Children and Families or any child-placing agency
403 licensed by the commissioner to make an investigation and written
404 report to it, within ninety days from the receipt of such request. The
405 report shall indicate the physical, mental and emotional status of the
406 child and shall contain such facts as may be relevant to the court's
407 determination of whether the proposed termination of parental rights
408 will be in the best interests of the child, including the physical, mental,
409 social and financial condition of the biological parents, and any other
410 factors which the commissioner or such child-placing agency finds
411 relevant to the court's determination of whether the proposed
412 termination will be in the best interests of the child. (2) If such a report
413 has been requested, upon the expiration of such ninety-day period or
414 upon receipt of the report, whichever is earlier, the court shall set a day
415 for a hearing not more than thirty days thereafter. The court shall give
416 reasonable notice of such adjourned hearing to all parties to the first
417 hearing, [including the child, if over fourteen years of age,] and to such
418 other persons as the court shall deem appropriate. (3) The report shall
419 be admissible in evidence, subject to the right of [any interested] a
420 party to require that the person making it appear as a witness [, if
421 available, and subject himself] and be subject to examination.

422 (f) At the adjourned hearing or at the initial hearing where no
423 investigation and report has been requested, the court may approve a
424 petition for termination of parental rights based on consent filed
425 pursuant to this section terminating the parental rights and may
426 appoint a guardian of the person of the child, or if the petitioner
427 requests, the court may appoint a statutory parent, if it finds, upon
428 clear and convincing evidence that (1) the termination is in the best
429 interest of the child, and (2) such parent has voluntarily and
430 knowingly consented to termination of the parent's parental rights
431 with respect to such child. If the court denies a petition for termination
432 of parental rights based on consent, it may refer the matter to an
433 agency to assess the needs of the child, the care the child is receiving
434 and the plan of the parent for the child. Consent for the termination of
435 the parental right of one parent does not diminish the parental rights

436 of the other parent of the child nor does it relieve the other parent of
437 the duty to support the child.

438 (g) At the adjourned hearing or at the initial hearing where no
439 investigation and report has been requested, the court may approve a
440 petition terminating the parental rights and may appoint a guardian of
441 the person of the child, or, if the petitioner requests, the court may
442 appoint a statutory parent, if it finds, upon clear and convincing
443 evidence, that (1) the termination is in the best interest of the child, and
444 (2) (A) the child has been abandoned by the parent in the sense that the
445 parent has failed to maintain a reasonable degree of interest, concern
446 or responsibility as to the welfare of the child; (B) the child has been
447 denied, by reason of an act or acts of parental commission or omission,
448 including, but not limited to, sexual molestation and exploitation,
449 severe physical abuse or a pattern of abuse, the care, guidance or
450 control necessary for the child's physical, educational, moral or
451 emotional well-being. Nonaccidental or inadequately explained
452 serious physical injury to a child shall constitute prima facie evidence
453 of acts of parental commission or omission sufficient for the
454 termination of parental rights; (C) there is no ongoing parent-child
455 relationship which is defined as the relationship that ordinarily
456 develops as a result of a parent having met on a continuing, day-to-
457 day basis the physical, emotional, moral and educational needs of the
458 child and to allow further time for the establishment or
459 reestablishment of the parent-child relationship would be detrimental
460 to the best interests of the child; (D) a child of the parent (i) was found
461 by the Superior Court or the Probate Court to have been neglected,
462 abused or uncared for, as those terms are defined in section 46b-120, in
463 a prior proceeding, or (ii) is found to be neglected, abused or uncared
464 for and has been in the custody of the commissioner for at least fifteen
465 months and such parent has been provided specific steps to take to
466 facilitate the return of the child to the parent pursuant to section 46b-
467 129 and has failed to achieve such degree of personal rehabilitation as
468 would encourage the belief that within a reasonable time, considering
469 the age and needs of the child, such parent could assume a responsible
470 position in the life of the child; (E) a child of the parent, who is under

471 the age of seven years is found to be neglected, abused or uncared for,
472 and the parent has failed, is unable or is unwilling to achieve such
473 degree of personal rehabilitation as would encourage the belief that
474 within a reasonable amount of time, considering the age and needs of
475 the child, such parent could assume a responsible position in the life of
476 the child and such parent's parental rights of another child were
477 previously terminated pursuant to a petition filed by the
478 Commissioner of Children and Families; (F) the parent has killed
479 through deliberate, nonaccidental act another child of the parent or has
480 requested, commanded, importuned, attempted, conspired or solicited
481 such killing or has committed an assault, through deliberate,
482 nonaccidental act that resulted in serious bodily injury of another child
483 of the parent; (G) except as provided in subsection (h) of this section,
484 the parent committed an act that constitutes sexual assault as
485 described in section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b
486 or 53a-73a or compelling a spouse or cohabitor to engage in sexual
487 intercourse by the use of force or by the threat of the use of force as
488 described in section 53a-70b, if such act resulted in the conception of
489 the child; or (H) the parent was finally adjudged guilty of sexual
490 assault under section 53a-70, 53a-70a, 53a-70c, 53a-71, 53a-72a, 53a-72b
491 or 53a-73a or of compelling a spouse or cohabitor to engage in sexual
492 intercourse by the use of force or by the threat of the use of force under
493 section 53a-70b, if such act resulted in the conception of the child.

494 (h) If the petition alleges an act described in subparagraph (G) of
495 subdivision (2) of subsection (g) of this section that resulted in the
496 conception of the child as a basis for termination of parental rights and
497 the court determines that the respondent parent was finally adjudged
498 not guilty of such act of sexual assault under section 53a-70, 53a-70a,
499 53a-70c, 53a-71, 53a-72a, 53a-72b or 53a-73 or of compelling a spouse or
500 cohabitor to engage in sexual intercourse by the use of force or by the
501 threat of the use of force under section 53a-70b, the court shall transfer
502 the case to the Superior Court and the clerk of the Probate Court shall
503 transmit to the clerk of the Superior Court to which the case was
504 transferred, the original files and papers in the case. The Superior
505 Court, upon hearing after notice as provided in this section and section

506 45a-716, as amended by this act, may grant the petition as provided in
507 this section.

508 (i) Except in the case where termination is based on consent, in
509 determining whether to terminate parental rights under this section,
510 the court shall consider and shall make written findings regarding: (1)
511 The timeliness, nature and extent of services offered, provided and
512 made available to the parent and the child by a child-placing agency to
513 facilitate the reunion of the child with the parent; (2) the terms of any
514 applicable court order entered into and agreed upon by any individual
515 or child-placing agency and the parent, and the extent to which all
516 parties have fulfilled their obligations under such order; (3) the
517 feelings and emotional ties of the child with respect to the child's
518 parents, any guardian of the child's person and any person who has
519 exercised physical care, custody or control of the child for at least one
520 year and with whom the child has developed significant emotional
521 ties; (4) the age of the child; (5) the efforts the parent has made to
522 adjust such parent's circumstances, conduct or conditions to make it in
523 the best interest of the child to return the child to the parent's home in
524 the foreseeable future, including, but not limited to, (A) the extent to
525 which the parent has maintained contact with the child as part of an
526 effort to reunite the child with the parent, provided the court may give
527 weight to incidental visitations, communications or contributions and
528 (B) the maintenance of regular contact or communication with the
529 guardian or other custodian of the child; and (6) the extent to which a
530 parent has been prevented from maintaining a meaningful relationship
531 with the child by the unreasonable act or conduct of the other parent of
532 the child, or the unreasonable act of any other person or by the
533 economic circumstances of the parent.

534 (j) If the parental rights of only one parent are terminated, the
535 remaining parent shall be sole parent and, unless otherwise provided
536 by law, guardian of the person.

537 (k) In the case where termination of parental rights is granted, the
538 guardian of the person or statutory parent shall report to the court

539 within thirty days of the date judgment is entered on a case plan, as
540 defined by the federal Adoption and Safe Families Act of 1997, as
541 amended from time to time, for the child. At least every three months
542 thereafter, such guardian or statutory parent shall make a report to the
543 court on the implementation of the plan. The court may convene a
544 hearing upon the filing of a report and shall convene a hearing for the
545 purpose of reviewing the plan no more than twelve months from the
546 date judgment is entered or from the date of the last permanency
547 hearing held pursuant to subsection (k) of section 46b-129 if the child
548 or youth is in the care and custody of the Commissioner of Children
549 and Families, whichever is earlier, and at least once a year thereafter
550 until such time as any proposed adoption plan has become finalized. If
551 the Commissioner of Children and Families is the statutory parent for
552 the child, at such a hearing the court shall determine whether the
553 department has made reasonable efforts to achieve the permanency
554 plan. In the case where termination of parental rights is granted, the
555 guardian of the person or statutory parent shall obtain the approval of
556 the court prior to placing the child or youth for adoption outside the
557 state. Before ordering or approving such placement, the court shall
558 make findings concerning compliance with the provisions of section
559 17a-175. Such findings shall include, but not be limited to: (1) A finding
560 that the state has received notice in writing from the receiving state, in
561 accordance with subsection (d) of Article III of section 17a-175,
562 indicating that the proposed placement does not appear contrary to the
563 interests of the child, (2) the court has reviewed such notice, (3)
564 whether or not an interstate compact study or other home study has
565 been completed by the receiving state, and (4) if such a study has been
566 completed, whether the conclusions reached by the receiving state as a
567 result of such study support the placement.

568 Sec. 9. Section 45a-718 of the general statutes is repealed and the
569 following is substituted in lieu thereof (*Effective October 1, 2019*):

570 (a) If a child is free for adoption as provided in section 45a-725, and
571 no appointment of a statutory parent has been made under section
572 17a-112 or section 45a-717, as amended by this act, the [Court of]

573 Probate Court shall appoint a statutory parent for the child upon
574 petition for appointment of a statutory parent by the guardian of the
575 person of the child or a duly authorized officer of any child care
576 facility or child-placing agency. The petition shall be filed in the [court
577 of probate] Probate Court for the district in which the petitioner or
578 child resides or in the district in which the main office or any local
579 office of the petitioner or the proposed statutory parent is located. The
580 statutory parent shall be the Commissioner of Children and Families
581 or a child-placing agency. Notice of the proceeding shall be sent to the
582 guardian of the person, the child, if [over the age of twelve] age twelve
583 or older, the [applicant] petitioner, the Commissioner of Children and
584 Families and the proposed statutory parent by [registered or certified
585 mail or otherwise, at least] first class mail not less than ten days before
586 the date of the hearing. Notice is not required for any party who files
587 in court a written waiver of notice.

588 (b) The statutory parent shall be the guardian of the person of the
589 child, shall be responsible for the welfare of the child and the
590 protection of [his] the child's interests and shall retain custody of the
591 child until [he] the child attains the age of eighteen unless, before that
592 time, [he] the child is legally adopted or committed to the
593 Commissioner of Children and Families or a licensed child-placing
594 agency.

595 (c) Any statutory parent may resign or be removed for good cause
596 shown. Upon filing of [an application] a petition for the removal of a
597 statutory parent or filing of a resignation of a statutory parent in the
598 [court of probate] Probate Court in which the statutory parent was
599 appointed, the court shall schedule a hearing, on the removal
600 [application] petition or resignation. Notice of such hearing shall be
601 sent in accordance with section 45a-716, as amended by this act, except
602 that notice need not be sent to any parties whose rights have
603 previously been terminated. At the hearing the court may accept the
604 resignation, remove the statutory parent, or deny the [application]
605 petition for removal. If a statutory parent is removed or resigns, the
606 [court of probate] Probate Court shall appoint a new statutory parent

607 or a guardian of the person.

608 Sec. 10. Section 45a-186 of the general statutes is repealed and the
609 following is substituted in lieu thereof (*Effective from passage*):

610 [(a) Except as provided in sections 45a-187 and 45a-188, any person
611 aggrieved by any order, denial or decree of a Probate Court in any
612 matter, unless otherwise specially provided by law, may, not later than
613 forty-five days after the mailing of an order, denial or decree for a
614 matter heard under any provision of section 45a-593, 45a-594, 45a-595
615 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to
616 45a-705, inclusive, and not later than thirty days after mailing of an
617 order, denial or decree for any other matter in a Probate Court, appeal
618 therefrom to the Superior Court. Such an appeal shall be commenced
619 by filing a complaint in the superior court in the judicial district in
620 which such Probate Court is located, or, if the Probate Court is located
621 in a probate district that is in more than one judicial district, by filing a
622 complaint in a superior court that is located in a judicial district in
623 which any portion of the probate district is located, except that (1) an
624 appeal under subsection (b) of section 12-359, subsection (b) of section
625 12-367 or subsection (b) of section 12-395 shall be filed in the judicial
626 district of Hartford, and (2) an appeal in a matter concerning removal
627 of a parent as guardian, termination of parental rights or adoption
628 shall be filed in any superior court for juvenile matters having
629 jurisdiction over matters arising in any town within such probate
630 district. The complaint shall state the reasons for the appeal. A copy of
631 the order, denial or decree appealed from shall be attached to the
632 complaint. Appeals from any decision rendered in any case after a
633 recording is made of the proceedings under section 17a-498, 17a-543,
634 17a-543a or 17a-685, sections 45a-644 to 45a-667v, inclusive, or section
635 51-72 or 51-73 shall be on the record and shall not be a trial de novo.]

636 (a) As used in this section and section 45a-187, as amended by this
637 act, "electronic service" has the same meaning as provided in section 1
638 of this act.

639 (b) Any person aggrieved by an order, denial or decree of a Probate

640 Court may appeal therefrom to the Superior Court. An appeal from a
641 matter heard under any provision of section 45a-593, 45a-594, 45a-595
642 or 45a-597, sections 45a-644 to 45a-677, inclusive, or sections 45a-690 to
643 45a-705, inclusive, shall be filed not later than forty-five days after the
644 date on which the Probate Court sent the order, denial or decree.
645 Except as provided in sections 45a-187 and 45a-188, as amended by
646 this act, an appeal from an order, denial or decree in any other matter
647 shall be filed on or before the thirtieth day after the date on which the
648 Probate Court sent the order, denial or decree. The appeal period shall
649 be calculated from the date on which the court sent the order, denial or
650 decree by mail or the date on which the court transmitted the order,
651 denial or decree by electronic service, whichever is later.

652 (c) An appeal shall be commenced by filing a complaint in the
653 Superior Court in the judicial district in which such Probate Court is
654 located, or, if the Probate Court is located in a probate district that is in
655 more than one judicial district, by filing a complaint in a superior court
656 that is located in a judicial district in which any portion of the probate
657 district is located, except that (1) an appeal under subsection (b) of
658 section 12-359, subsection (b) of section 12-367 or subsection (b) of
659 section 12-395 shall be filed in the judicial district of Hartford, and (2)
660 an appeal in a matter concerning removal of a parent as guardian,
661 termination of parental rights or adoption shall be filed in any superior
662 court for juvenile matters having jurisdiction over matters arising in
663 any town within such probate district. The complaint shall state the
664 reasons for the appeal. A copy of the order, denial or decree appealed
665 from shall be attached to the complaint.

666 (d) An appeal from a decision rendered in any case after a recording
667 of the proceedings is made under section 17a-498, 17a-543, 17a-543a or
668 17a-685, sections 45a-644 to 45a-667v, inclusive, or section 51-72 or 51-
669 73, shall be on the record and shall not be a trial de novo.

670 [(b)] (e) Each person who files an appeal pursuant to this section
671 shall serve a copy of the complaint on each interested party. The
672 failure of any person to make such service shall not deprive the

673 Superior Court of jurisdiction over the appeal. Notwithstanding the
674 provisions of section 52-50, service of the copy of the complaint shall
675 be by state marshal, constable or an indifferent person. Service shall be
676 in hand or by leaving a copy at the place of residence of the interested
677 party being served or at the address for the interested party on file
678 with the Probate Court, except that service on a respondent or
679 conserved person in an appeal from an action under part IV of chapter
680 802h shall be in hand by a state marshal, constable or an indifferent
681 person.

682 [(c)] (f) In addition to the notice given under subsection [(b)] (e) of
683 this section, each person who files an appeal pursuant to this section
684 shall mail a copy of the complaint to the Probate Court that rendered
685 the order, denial or decree appealed from. The Probate Court and the
686 [judge of] probate judge that rendered the order, denial or decree
687 appealed from shall not be made parties to the appeal and shall not be
688 named in the complaint as parties.

689 [(d)] (g) Not later than fifteen days after a person files an appeal
690 under this section, the person who filed the appeal shall file or cause to
691 be filed with the clerk of the Superior Court a document containing (1)
692 the name, address and signature of the person making service, and (2)
693 a statement of the date and manner in which a copy of the complaint
694 was served on each interested party and mailed to the Probate Court
695 that rendered the order, denial or decree appealed from.

696 [(e)] (h) If service has not been made on an interested party, the
697 Superior Court, on motion, shall make such orders of notice of the
698 appeal as are reasonably calculated to notify any necessary party not
699 yet served.

700 [(f)] (i) A hearing in an appeal from probate proceedings under
701 section 17a-77, 17a-80, 17a-498, 17a-510, 17a-511, 17a-543, 17a-543a,
702 17a-685, 45a-650, 45a-654, 45a-660, 45a-674, 45a-676, 45a-681, 45a-682,
703 45a-699, 45a-703 or 45a-717, as amended by this act, shall commence,
704 unless a stay has been issued pursuant to subsection [(g)] (j) of this
705 section, not later than ninety days after the appeal has been filed.

706 [(g)] (j) The filing of an appeal under this section shall not, of itself,
707 stay enforcement of the order, denial or decree from which the appeal
708 is taken. A motion for a stay may be made to the Probate Court or the
709 Superior Court. The filing of a motion with the Probate Court shall not
710 preclude action by the Superior Court.

711 [(h)] (k) Nothing in this section shall prevent any person aggrieved
712 by any order, denial or decree of a Probate Court in any matter, unless
713 otherwise specially provided by law, from filing a petition for a writ of
714 habeas corpus, a petition for termination of involuntary representation
715 or a petition for any other available remedy.

716 [(i)] (l) (1) Except for matters described in subdivision (3) of this
717 subsection, in any appeal filed under this section, the appeal may be
718 referred by the Superior Court to a special assignment probate judge
719 appointed in accordance with section 45a-79b, who is assigned by the
720 Probate Court Administrator for the purposes of such appeal, except
721 that such appeal shall be heard by the Superior Court if any party files
722 a demand for such hearing in writing with the Superior Court not later
723 than twenty days after service of the appeal.

724 (2) An appeal referred to a special assignment probate judge
725 pursuant to this subsection shall proceed in accordance with the rules
726 for references set forth in the rules of the judges of the Superior Court.

727 (3) The following matters shall not be referred to a special
728 assignment probate judge pursuant to this subsection: Appeals under
729 sections 17a-75 to 17a-83, inclusive, section 17a-274, sections 17a-495 to
730 17a-528, inclusive, sections 17a-543, 17a-543a, 17a-685 to 17a-688,
731 inclusive, children's matters as defined in subsection (a) of section 45a-
732 8a, sections 45a-644 to 45a-663, inclusive, 45a-668 to 45a-683, inclusive,
733 and 45a-690 to 45a-700, inclusive, and any matter in a Probate Court
734 heard on the record in accordance with sections 51-72 and 51-73.

735 Sec. 11. Section 45a-186a of the general statutes is repealed and the
736 following is substituted in lieu thereof (*Effective from passage*):

737 (a) In an appeal from an order, denial or decree of a [court of
738 probate] Probate Court made after a hearing that is on the record
739 [pursuant to subsection (a) of section 45a-186] under section 17a-498,
740 17a-543, 17a-543a or 17a-685, sections 45a-644 to 45a-667v, inclusive, or
741 section 51-72 or 51-73, not later than thirty days after service is made of
742 such appeal under section 45a-186, as amended by this act, or within
743 such further time as may be allowed by the Superior Court, the [Court
744 of] Probate Court shall transcribe any portion of the recording of the
745 proceedings that has not been transcribed. The expense for such
746 transcript shall be charged against the person who filed the appeal,
747 except that if the person who filed the appeal is unable to pay such
748 expense and files an affidavit with the court demonstrating the
749 inability to pay, the expense of the transcript shall be paid by the
750 Probate Court Administrator and paid from the Probate Court
751 Administration Fund.

752 (b) The [Court of] Probate Court shall transmit to the Superior Court
753 the original or a certified copy of the entire record of the proceeding
754 from which the appeal was taken. The record shall include, but not be
755 limited to, the findings of fact and conclusions of law, separately
756 stated, of the [Court of] Probate Court.

757 (c) An appeal from an order, denial or decree made after a hearing
758 on the record under section 17a-498, 17a-543, 17a-543a or 17a-685,
759 sections 45a-644 to 45a-667v, inclusive, or section 51-72 or 51-73, shall
760 be heard by the Superior Court without a jury, and may be referred to
761 a state referee appointed under section 51-50l. The appeal shall be
762 confined to the record. If alleged irregularities in procedure before the
763 [court of probate] Probate Court are not shown in the record or if facts
764 necessary to establish such alleged irregularities in procedure are not
765 shown in the record, proof limited to such alleged irregularities may
766 be taken in the Superior Court. The Superior Court, on request of any
767 party, shall hear oral argument and receive written briefs.

768 Sec. 12. Section 45a-186b of the general statutes is repealed and the
769 following is substituted in lieu thereof (*Effective from passage*):

770 In an appeal taken under section 45a-186, as amended by this act,
771 from a matter heard on the record in the [Court of] Probate Court
772 under section 17a-498, 17a-543, 17a-543a or 17a-685, sections 45a-644 to
773 45a-667v, inclusive, or section 51-72 or 51-73, the Superior Court shall
774 not substitute its judgment for that of the [Court of] Probate Court as
775 to the weight of the evidence on questions of fact. The Superior Court
776 shall affirm the decision of the [Court of] Probate Court unless the
777 Superior Court finds that substantial rights of the person appealing
778 have been prejudiced because the findings, inferences, conclusions or
779 decisions are: (1) In violation of the federal or state constitution or the
780 general statutes, (2) in excess of the statutory authority of the [Court
781 of] Probate Court, (3) made on unlawful procedure, (4) affected by
782 other error of law, (5) clearly erroneous in view of the reliable,
783 probative and substantial evidence on the whole record, or (6)
784 arbitrary or capricious or characterized by abuse of discretion or
785 clearly unwarranted exercise of discretion. If the Superior Court finds
786 such prejudice, the Superior Court shall sustain the appeal and, if
787 appropriate, may render a judgment that modifies the [Court of
788 Probate's] Probate Court's order, denial or decree or remand the case to
789 the [Court of] Probate Court for further proceedings. For the purposes
790 of this section, a remand is a final judgment.

791 Sec. 13. Section 45a-187 of the general statutes is repealed and the
792 following is substituted in lieu thereof (*Effective from passage*):

793 (a) An appeal by persons of the age of majority who are present or
794 who have legal notice to be present, or who have been given notice of
795 their right to request a hearing or have filed a written waiver of their
796 right to a hearing, shall be taken within the time provided in section
797 45a-186, as amended by this act, except as otherwise provided in this
798 section. If such persons have no notice to be present and are not
799 present, or have not been given notice of their right to request a
800 hearing, such appeal shall be taken within twelve months, except for
801 appeals by such persons from an order of termination of parental
802 rights, other than an order of termination of parental rights based on
803 consent, or a decree of adoption, in which case appeal shall be taken

804 within ninety days. An appeal from an order of termination of parental
805 rights based on consent, which order is issued on or after October 1,
806 2004, shall be taken within twenty days. The appeal periods set forth in
807 this section shall be calculated from the date on which the court sent
808 the order, denial or decree by mail or the date on which the court
809 transmitted the order, denial or decree by electronic service, whichever
810 is later.

811 (b) An order, denial or decree of a [court of probate] Probate Court
812 shall not be invalid because of the disqualification of the judge unless
813 an appeal therefrom is taken within the time provided in [section 45a-
814 186, this section and section 45a-188] this section and sections 45a-186
815 and 45a-188, as amended by this act.

816 Sec. 14. Section 45a-188 of the general statutes is repealed and the
817 following is substituted in lieu thereof (*Effective from passage*):

818 (a) Except as provided in this section, all appeals by persons who
819 are minors at the time of the making of the order, denial or decree
820 appealed from shall be taken within twelve months after they arrive at
821 the age of majority.

822 (b) In the case of any minor who has a guardian or guardian ad
823 litem appointed and qualified by any [court of probate] Probate Court
824 in this state at the time of the making of the order, denial or decree, the
825 minor or anyone on his or her behalf may appeal therefrom within the
826 time provided in section 45a-186, as amended by this act, if the
827 guardian or guardian ad litem had legal notice of the time and place of
828 the hearing.

829 (c) Any judge or clerk of the [Court of] Probate Court or any
830 fiduciary may cause written notice of any order, denial or decree of the
831 [Court of] Probate Court to be given to any person of the age of
832 majority, or to the guardian or guardian ad litem of any minor who
833 has not had legal notice of the hearing on the proceeding at which the
834 order, denial or decree was passed and who may be aggrieved thereby.
835 In any such case the person, minor, guardian or guardian ad litem may

836 appeal only within the time provided in section 45a-186, as amended
 837 by this act, after receiving such notice.

838 Sec. 15. Subsection (a) of section 45a-193 of the general statutes is
 839 repealed and the following is substituted in lieu thereof (*Effective*
 840 *October 1, 2019*):

841 (a) In any appeal from any order or decree of a [court of probate]
 842 Probate Court, if the appellee is the party who applied for the order or
 843 decree and if the appellee appears in the Superior Court to contest the
 844 matter being appealed, the court may, at its discretion, order the
 845 appellee to give bond to the state for the payment to the appellant of
 846 [his] the appellant's costs of suit if judgment is rendered for the
 847 appellant.

848 Sec. 16. Subsection (e) of section 45a-715 of the general statutes is
 849 repealed and the following is substituted in lieu thereof (*Effective*
 850 *October 1, 2019*):

851 (e) A petition under this section shall be filed in the Probate Court
 852 for the district in which (1) the petitioner resides, (2) the child resides,
 853 is domiciled or is located at the time of the filing of the petition, or (3)
 854 in the case of a minor who is under the guardianship of any child care
 855 facility or child-placing agency, in the Probate Court for the district in
 856 which any office of the agency is located. If the petition is filed with
 857 respect to a child born out of wedlock, the petition shall state whether
 858 there is a putative father to whom notice shall be given under
 859 subdivision [(2)] (3) of subsection (b) of section 45a-716, as amended by
 860 this act.

861 Sec. 17. Section 45a-653 of the general statutes is repealed. (*Effective*
 862 *July 1, 2019*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>January 1, 2020</i>	17a-101j

Sec. 3	<i>from passage</i>	45a-2a
Sec. 4	<i>July 1, 2019</i>	45a-106a(b)
Sec. 5	<i>January 1, 2020</i>	45a-616
Sec. 6	<i>October 1, 2019</i>	45a-678
Sec. 7	<i>October 1, 2019</i>	45a-716
Sec. 8	<i>October 1, 2019</i>	45a-717
Sec. 9	<i>October 1, 2019</i>	45a-718
Sec. 10	<i>from passage</i>	45a-186
Sec. 11	<i>from passage</i>	45a-186a
Sec. 12	<i>from passage</i>	45a-186b
Sec. 13	<i>from passage</i>	45a-187
Sec. 14	<i>from passage</i>	45a-188
Sec. 15	<i>October 1, 2019</i>	45a-193(a)
Sec. 16	<i>October 1, 2019</i>	45a-715(e)
Sec. 17	<i>July 1, 2019</i>	Repealer section

Statement of Legislative Commissioners:

In Section 1(b), the phrase "Notwithstanding any provision of the general statutes," was added for consistency with other provisions of the general statutes; and a new Section 16, amending subsection (e) of section 45a-715 of the general statutes, was added to make a required conforming technical change.

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 20 \$	FY 21 \$
Probate Court	PCAF - Revenue Gain	300,000	300,000

Note: PCAF=Probate Court Administration Fund

Municipal Impact: None

Explanation

The bill increases the fee for filing various motions with the probate court by \$25 (from \$225 to \$250) and results in revenue gain to the Probate Court Administration Fund of approximately \$300,000 annually.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of motions filed.

OLR Bill Analysis**sHB 7130*****AN ACT CONCERNING PROBATE COURT OPERATIONS.*****SUMMARY**

This bill makes various changes to the state's probate court operations laws. Principally, the bill:

1. allows for electronic filing and delivery of probate court documents and requires the appeal period for electronically served decisions to be calculated from the date of transmission (§§ 1 & 10-15);
2. expands the circumstances under which the Department of Children and Families (DCF) commissioner must notify the probate court when she substantiates an abuse or neglect allegation (§ 2);
3. increases, from \$225 to \$250, the fee for filing motions, petitions, or applications in probate court for matters other than decedents' estates (§ 4);
4. removes the probate court's ability to, on its own motion, appoint a guardian for a minor who has no parent or guardian and instead only allows an adult relative, person with physical custody of the minor, or the minor's attorney to petition for a guardian appointment (§ 5);
5. eliminates the requirement that the guardian of an adult with intellectual disability (i.e., a plenary or limited guardian) receive personal service of a petition to remove his or her guardianship (§ 6);
6. alters certain notice requirements involving termination of parental rights proceedings, including requiring notice to minor

children age 12 or older (§§ 7-9);

7. repeals a procedure by which a petitioner may freeze the assets of someone who is the subject of a conservatorship proceeding by filing a certified copy of the petition with a financial institution or recording the copy on the land records (§ 17); and
8. makes minor, technical, and conforming changes (§ 3 and throughout).

EFFECTIVE DATE: Upon passage, except the provisions on (1) terminating parental rights, plenary or limited guardians, statutory parent appointments, and a technical change to probate court appeals are effective October 1, 2019; (2) probate court filing fees and freezing assets are effective July 1, 2019; and (3) child abuse or neglect investigations and petitions for guardianship appointments are effective January 1, 2020.

§§ 1 & 10-15 — ELECTRONIC FILING AND PROBATE COURT APPEALS

Electronic Filing

The bill allows for the probate court administrator to maintain an electronic filing (eFiling) system for filing, sending, receiving, and viewing probate court documents. The system must also enable users to pay associated court fees and expenses.

Under the bill, the probate court or a party or attorney in a probate court matter can use the system to electronically serve (eServe) a filing, notice, or other document to a registered filer (i.e., someone registered to use the system) if the court has granted the filer's request for online access to the matter's records.

The bill specifies that using the eFiling system satisfies the law's requirements on transmitting a filing, notice, or document by means other than personal service.

Probate Court Appeals

By law, individuals may appeal a probate court order, denial, or decree within a certain time period. The length of time permitted for an appeal varies based on the matter involved. Currently, the time period for an appeal is calculated from when the court sent the order, denial, or decree. Under the bill, the appeal period is calculated from that date or the date on which it electronically served the order, denial, or decree, whichever is later.

§ 2 — NOTICE OF CHILD ABUSE OR NEGLECT

The bill requires the DCF commissioner, after investigating and substantiating a child abuse or neglect allegation against someone who lives with a probate court-appointed guardian of a minor child, to notify the probate court of her findings. The law already requires her to provide this notice if she investigates and substantiates an allegation of child abuse or neglect against a child's probate court-appointed guardian.

§ 5 — GUARDIAN APPOINTMENT FOR A MINOR

Current law permits a probate court to appoint a guardian or co-guardians for a minor under its jurisdiction who has no guardian or parent. The bill instead allows the following individuals to petition the probate court for guardianship of the minor: an adult relative by blood or marriage, a person with actual physical custody of the minor when the petition is filed, or the minor's attorney.

Under the bill, the petition must be filed in the probate court in the district where the minor lives, is domiciled, or is located when the petition is filed. As required under current law, the court must consider standards in existing law when making such appointments, such as the ability of a prospective guardian to meet the minor's needs and the best interests of the minor.

The bill also requires the court to order that notice of a guardianship hearing be provided to 12-year-old minors who are the subject of guardianship hearings, in addition to minors over age 12 as required under current law.

For these purposes, a “minor” is (1) someone under age 18 or (2) an unmarried person under age 21 who (a) is dependent on a competent caregiver, (b) has consented to continuation of a guardianship after turning 18, and (c) files or on whose behalf is filed a petition for special immigrant juvenile status (see BACKGROUND).

§§ 7-9 — PARENTAL RIGHTS TERMINATION PROCEEDINGS

Notice Requirements

The bill requires the probate court to provide notice of a termination of parental rights hearing to any child age 12 or older whose parent is the subject of the hearing. As under current law, the court must also give notice, as applicable, to the child’s parents, guardian or other person, DCF commissioner, and the attorney general.

By law, when a child is free for adoption and no statutory parent has been appointed, the court must hold a hearing to make an appointment upon petition from the child’s guardian or a duly authorized officer of a child care facility or child-placing agency. The bill requires notice of the hearing to be sent to the child if he or she is age 12 or older and other interested parties by first class mail at least ten days before the hearing. Currently, the notice is sent (1) to the child if he or she is age 13 or older and (2) by registered or certified mail or other method.

Court-Ordered Evaluations

By law, the court, during the hearing or at any time the termination petition is pending, may order an examination by a court-appointed physician, psychiatrist, or licensed clinical psychologist of the (1) child or (2) parent or custodian if his or her competency to care for the child is at issue.

Currently, if the court orders the examination on its own motion, the petitioner must pay for the examination and if another party moves for the examination, that party must cover the cost. But if neither is able to pay, the judicial department or probate court, as applicable, covers the cost.

The bill instead requires the petitioner, respondent, or requesting party to pay for the examination in a proportion that the court determines and if a responsible party is indigent, that party's share must be covered by the judicial department or probate court, as applicable.

DCF Investigations and Reports

By law, the court may, and must in contested case hearings, ask DCF or a DCF-licensed child-placing agency to investigate and report on the child's physical, mental, and emotional status and other relevant factors to help it determine if terminating parental rights would be in the child's best interest.

Under the bill, the report is admissible in evidence subject to the right of a party to require that the person who made the report appear as a witness and be subject to examination. Currently, only interested parties have this right and the witness only has to appear if he or she is available.

BACKGROUND

Special Immigrant Juvenile (SIJ) Status

Existing law permits a party in a probate court case involving guardianship, parental rights, or adoption, to petition the court to make certain findings that someone may use to apply to the U.S. Citizenship and Immigration Services for SIJ status (CGS § 45a-608n).

Under federal law, an immigrant child under age 21 may apply for SIJ status if he or she (1) was abused, neglected, or abandoned and (2) meets certain other criteria. If granted by the federal court, SIJ status allows the child to legally remain in the United States (8 U.S.C. § 1101(a)(27)(J)).

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 38 Nay 0 (04/08/2019)